IN THE HIGH COURT OF BOMBAY AT GOA

CRIMINAL APPEAL NO.42/2000

STATE OF GOA
through Shri Rajiv Korde,
Food Inspector,
Directorate of Food & Drugs Admn.,
Govt. of Goa,
Campal, Panaji, Goa. .... Appellant.

V/s.

1. Shri Keshav N. Shirodkar,
Near Old Bus Stand,
Sanquelim, Goa.

2. Shri Narcinva Shirodkar,
Near Old Bus Stand,
Sanquelim, Goa.

3. Smt. Sharada Manilal Shah,
C/o. M/s. Amardeep Products,
House No.16, Fatorda,
Fatorda, Goa.

4. Smt. Aruna Arvind Shah,
C/o. M/s. Amardeep Products,
House No.16, Fatorda,
Margao, Goa. ... Respondents.

Mr. S.N. Sardessai, Public Prosecutor for the State/ Appellant.

Mr. V.R. Tamba, Advocate for respondents No.1 and 2.

Mr. Sudin M.S. Usgaonkar, Advocate for respondents No.3 and 4.

CORAM : P.V. HARDAS, J.

DATE : FEBRUARY 13, 2003.

ORAL JUDGMENT :

This is an appeal filed by the State against the Judgment of the learned Judicial Magistrate, First

Class, Bicholim, dated 20/3/1999, in Criminal Case No. 10/0A/93/A acquitting the accused after closing the prosecution evidence, as the prosecution had not been able to complete the recording of the evidence within two years from the date of framing of the Charge, relying on the Judgment of the Hon'ble Apex Court in **"Common Cause"** V/s. **Union of India and others,** 1997 SCW 290.

2. Learned Counsel appearing for the parties have brought to my notice the Judgment of the Hon'ble Supreme Court in **P.Ramachandra Rao** v/s. **State of Karnataka,** (2002) 4 SCCs 578 in which the Hon'ble Supreme Court has held that the directions issued by the Supreme Court in Common Cause I, Common Cause II, Raj Deo Sharma I and Raj Deo Sharma II run counter to the Constitution Bench decision in A.R. Antulay's case (1992) 1 SCC 225 and hence, the directions stand deleted. In view of this, the Judgment passed by the learned trial Court, acquitting the respondents/accused for the offence under Sections 7(i), 7(ii) read with Section 2(ia), (m) and 2(ix), (k) and Section 16 of the Prevention of Food Adulteration Act, 1954 cannot be sustained and is hereby quashed and set aside. The matter is remitted back to the learned trial Court to decide the matter afresh, after affording the

prosecution an opportunity of leading evidence. The incomplete cross examination of PW.1 shall be resumed. Every effort shall be made by the learned trial Court to dispose of the case as expeditiously as possible. The parties to appear before the learned trial Court on 28.2.2003 at 10.30 a.m.

P.V. HARDAS, J.

ssm.